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7 **IN THE UNITED STATES DISTRICT COURT**
8 **IN AND FOR THE WESTERN DISTRICT OF WASHINGTON**

9 NATHEN BARTON,

10 Plaintiff,

11 v.

12 JOE DELFGAUW, XANADU
13 MARKETING INC., STARTER HOME
INVESTING INC, & JOHN DOE 1-10,

14 Defendants.

15 JOE DELFGAUW, XANADU
16 MARKETING INC., STARTER HOME
INVESTING INC, & JOHN DOE 1-10,

17 Counterclaimants,

18 v.

19 NATHEN BARTON,

20 Counter Defendants.

CASE NO. 3:21-cv-05610-JRC

**DEFENDANTS JOE DELFGAUW,
XANADU MARKETING INC and
STARTER HOME INVESTING INC.'S
ANSWER TO FIRST AMENDED
COMPLAINT.**

21 COMES NOW Defendants **JOE DELFGAUW, XANADU MARKETING INC and**
22 **STARTER HOME INVESTING INC.'S** and answers the Complaint as follows: There are
no paragraph numbers. Defendants responds to each paragraph in order.

ANSWER TO FIRST AMENDED COMPLAINT

I. BASIS FOR JURISDICTION

Defendants lack sufficient personal information to admit or deny the information as to the residence of Plaintiff and leaves Plaintiff to its proofs as to the remaining allegations in this paragraph.

Defendants admit that if Plaintiff does live in Washington that venue and jurisdiction are proper in this Court. Defendants lack sufficient personal information to admit or deny the information as to the residence of Plaintiff and leaves Plaintiff to its proofs as to the remaining allegations in this paragraph.

The remainder of the allegations in the section are vague and the Answering Parties leave Plaintiff to his proofs.

II. THE PARTIES TO THE LITIGATION

Defendants lack sufficient personal information to admit or deny the information as to the residence of Plaintiff and leaves Plaintiff to its proofs.

Page 2, lines 1-3, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

Page 2, lines 4-5 Denied

Page 2, lines 6-11, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

Page 2, lines 12-13, Denied

Page 2, lines 14-17, Admitted

Page 2, line 18, Denied

ANSWER TO FIRST AMENDED COMPLAINT

Page 2, lines 19-21 & Page 3, 1-2, Admit

Page 3, lines 3-5, Denied

Page 3, lines 6 and part of 7, Denied

Page 3, lines 7-10, Denied

Page 3, lines 11-14, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

Page 3, line 15 Admit

Page 3, line 16, Denied

Page 3, line 17 -20, Admit

Page 3, lines 21-23 & Page 4, lines 1- 12, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

III. STATEMENT OF CLAIM

Page 4 lines 3 -9, the Answering Parties lack sufficient information on which to form a belief and therefore leave Plaintiff to its proofs.

Text Messages from SMS Short Code 33959

Page 4, lines 13-14, Admit

Page 4, lines 15 -22 & all of page 5 & line 1 of page 6, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

Page 6, lines 2-6 Admit

Page 6, line 7, denied

ANSWER TO FIRST AMENDED COMPLAINT

1 Page 6, lines 8-15, Admit

2 Page 6, last half of line 15 – line 17, Defendants lack sufficient information on which
3 to form a belief and therefore Plaintiff to its proofs
4

5 Rest of page 6, denied

6 **Text Messages from SMS Short Code 365365**

7 Page 7, lines 1-3, defendants lack sufficient information on which to form a belief and
8 therefore Plaintiff to its proofs
9

10 Page 7, lines 4-8, Denied

11 Page 7, lines 9- end of page, Defendants lack sufficient information on which to form a
12 belief and therefore Plaintiff to its proofs
13

14 **Text Messages from (803) 618-8038**

15 Page 8, Lines 1-5, Defendants lack sufficient information on which to form a belief and
16 therefore Plaintiff to its proofs
17

18 Page 8, lines 6-13, Admit

19 Page 8, lines, 14-16, Defendants lack sufficient information on which to form a belief
20 and therefore Plaintiff to its proofs
21

22 Page 8, lines 19-20, Amit

ANSWER TO FIRST AMENDED COMPLAINT

1 Page 8, rest of the page and page 9, lines 1-14, Defendants lack sufficient information
2 on which to form a belief and therefore Plaintiff to its proofs

3 **Solicitations from 1st Time Home Buyer Program Inc.**
4

5 Page 9 lines 15-17, Admit

6 Page 9, lines 18-20, Defendants lack sufficient information on which to form a belief
7 and therefore Plaintiff to its proofs
8

9 Rest of page 9 & page 10, lines 1-4, Admit

10 Page 10, lines 5-7, Defendants lack sufficient information on which to form a belief
11 and therefore Plaintiff to its proofs
12

13 Page 10, line 8, Admit

14 Page 10, lines 9-11, denied
15

16 Page 10, lines 12-18, Defendants lack sufficient information on which to form a belief
17 and therefore Plaintiff to its proofs
18

19 **More about (360) 318-7867**

20 Rest of page 10 & page 11, lines 1-5 Defendants lack sufficient information on which
21 to form a belief and therefore Plaintiff to its proofs
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ANSWER TO FIRST AMENDED COMPLAINT

Page 5
3:21-cv-05610 JRC

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1 Page 11, line 7-11: Defendants lacks sufficient information on which to form a belief
2 and therefore leaves Plaintiff to its proofs.

3 Page 11, line 13 Admit
4

5 Page 11, lines 14-16, denied
6

7 Page 11, lines 17-21, Defendants lack sufficient information on which to form a belief
8 and therefore Plaintiff to its proofs

9 Page 11, lines 22-23 & lines 1-2 of page 12, Admit
10

11 Page 12, line 3, denied

12 Page 12, lines 4-5, Defendants lack sufficient information on which to form a belief
13 and therefore Plaintiff to its proofs

14 Page 12, lines 6-8, Admit
15

16 Page 12, lines 9-10 denied
17

18 Page 12, lines 11 though Page 13, line 5, Defendants lack sufficient information on
19 which to form a belief and therefore Plaintiff to its proofs

20 **Roundup Lawsuit unsolicited call #3**

21 Defendants lacks sufficient personal information to admit or deny the allegations
22 contained in this Section and leaves Plaintiff to its proofs.

Except for Page 13, line 12, Admit.

ANSWER TO FIRST AMENDED COMPLAINT

Page 6
3:21-cv-05610 JRC

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Defendants lacks sufficient personal information to admit or deny the allegations contained in this Section and leaves Plaintiff to its proofs.

Page 14, lines 1-6, denied

The rest of the complaint, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

AS TO THE REMAINDER OF THE AMENDED COMPLAINT Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs

Defendants JOE DELFGAUW, XANADU MARKETING INC., and STARTER
HOME INVESTMENTS, INC, asserts the following defenses

- ## 1. Ambiguity

Page 7
3:21-cv-05610 JRC

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1 This answering Defendants assert that the plaintiff did not clearly state the issues in
2 this case, making it difficult for Defendants to fully respond, and therefore asks this Court for
3 leave to amend this answer to assert additional defenses once information is discovered that
4 would allow defenses to be known.

5 2. Failure to State a Claim Upon Which Relief Can Be Granted

6 Plaintiff's complaint fails to state a claim upon which relief can be granted against
7 these answering Defendants.

8 3. Standing

9 Mr. Barton has fraudulently manufactured this lawsuit with the intent of obtaining
10 money through the misuse of the TCPA and currently has at least nine active federal cases,
11 which Defendants believes shows bad faith on the part of Plaintiff. Mr. Barton is not the type
12 of plaintiff the law was created to protect and therefore, lacks Article III standing to even bring
13 the lawsuit. See *Stoops v. Wells Fargo Bank, N.A.*, 197 F. Supp.3d 782 (W.D. Pa. 2016).
14
15

16 4. Fraud

17 Defendants asserts that plaintiff or plaintiff's assignee used fraud, deceit or
18 misrepresentation to invite the contact

19 5. Unclean Hands

20 These answering Defendants assert that plaintiff or plaintiff's assignee committed a
21 wrongful act and/or fraud and/or misrepresentation and is attempting to benefit from those acts
22 through this lawsuit.

6. Failure to Mitigation

ANSWER TO FIRST AMENDED COMPLAINT

COUNTERCLAIMS

CONCLUSION AND REQUEST FOR RELIEF

Dated this **30th** day of January, 2022

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ANSWER TO FIRST AMENDED COMPLAINT

Page 10
3:21-cv-05610 JRC

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